REMARKS

Reconsideration of the present application is respectfully requested.

Claims 14-26 are pending in the application, of which Claims 14, 21, 23 and 25 are written in independent form. In the Office Action, the Examiner maintained the rejection of Claims 14-26 under 35 U.S.C. §102(e) as being anticipated by U.S. Patent App. Pub. No. 2002/0025815 to *Rune et al.* (hereinafter *Rune*).

Please amend Claims 14, 18 and 23 as set forth herein. No new matter has been added.

Regarding the §102(e) rejection, the Examiner alleged that each and every element of Claims 14-26 is disclosed in *Rune*. It is respectfully submitted that the Examiner is incorrect.

Generally, Claims 14-24 are directed to a channel type switching method for a multimedia broadcast and multicast service (MBMS) point to point (P-t-P) and point to multi point (P-t-M) channel. Claims 25-26 are similarly directed to a data communication channel establishment method for setting up MBMS. It is respectfully asserted that *Rune* makes absolutely no disclosure of an MBMS P-t-P or MBMS P-t-M channel, which is what is claimed herein.

Specifically, Claim 14 recites, *inter alia*, determining in the DRNC, to perform switching channel type between the P-t-M channel and the P-t-P channel based on a number of users having the MBMS service in the cell. *Rune*, as previously stated, does not concern MBMS, and therefore fails to disclose this determination step, which is "based on a number of users having the MBMS service in the cell." Likewise, *Rune* fails to disclose notifying the SRNC of the determined MBMS channel type, as further recited in Claim 14, because *Rune* never determines an MBMS channel type. Moreover, *Rune* fails to disclose transmitting MBMS data with the determined channel type to UEs requiring MBMS service, also recited in Claim 14.

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In the Response to Arguments, it is respectfully noted that the Examiner did not directly respond to Applicants' argument that *Rune* fails to disclose MBMS P-t-P or MBMS P-t-M channel, as claimed herein. Also in the Response to Arguments, the Examiner alleged that paragraphs 0020 and 0055 teach the aforementioned recitation. However, paragraph 0020 concerns assigning resources when switching from dedicated to common channels. This is different from determining to perform switching channel type based on a number of users having MBMS service, which simply is not taught in *Rune*. Additionally, it is respectfully asserted that paragraph 0055 does not teach the determining step at issue, contrary to the Examiner's allegation.

With further regard to the Response to Arguments, it is noted that the Examiner cited 3GPP TS 25.331.v.3.2.0 (hereinafter 3GPP) as "serving video and text messaging same as MBMS service," yet the Examiner made a §102 (e) rejection based on *Rune*. It is respectfully asserted that this allegation in the Response to Arguments is rather an indirect concession on the Examiner's behalf that *Rune* fails to teach the recitation at issue. Moreover, the Examiner's reliance on 3GPP here clearly renders the §102(e) rejection incorrect, since the Examiner cannot point to *Rune* as teaching each and every element of the claims.

With further regard to the "notifying" recitation in Claim 14, it was alleged that *Rune* teaches this recitation in step 100-3. Applicants respectfully disagree. The response message (3-2) transmitted at the step 100-3 is channel-switching related information, and includes C-RNTI and Requested radio/network resource. This message does not indicate the MBMS channel type determined by DRNC. Moreover, step 90-2 only teaches gathering and sending the requested channel switching-related information, but does not teach that transmitting, "by DRNC, the determined MBMS channel type".

In addition, the Examiner alleged that the steps 100-3 and 100-4 of *Rune* teaches notifying the MBMS channel type determined by DRNC from SRNC to the UE. However, step 100-4 of *Rune* simply does not teach notifying "the MBMS channel type determined by DRNC". That is, SRNC at step 100-4 merely directs the UE to switch to common channels, and does not

teach <u>notifying, "by SRNC", the MBMS channel type "determined by DRNC",</u> as recited in independent Claim 14 and similarly in Claims 21, 23 and 25.

Similar recitations to those found in Claim 14 are prevalent in independent Claims 21, 23 and 25, and like Claim 14 *Rune* fails to disclose these recitations. For example, Claim 21 recites *inter alia*, checking a number of UEs in a cell to determine an MBMS channel type, determining the MBMS channel type, and reporting change of the MBMS channel type to an SRNC. It is respectfully maintained that *Rune* never even determines an MBMS channel type, let alone reports a change of the MBMS channel type.

Claim 23 recites *inter alia*, transmitting from the DRNC, an MBMS channel type to the SRNC upon receiving the radio link setup message in the DRNC, notifying at the SRNC a UE that requires MBMS service to reconfigure the MBMS channel type, receiving at the UE the MBMS channel type, and receiving MBMS data on an MBMS channel. *Rune* does not disclose an MBMS channel type, and does not mention an MBMS channel.

Finally, Claim 25 recites *inter alia*, the DRNC sending an MBMS service request message to the CN. *Rune* does not disclose this step, nor any of the proceeding steps dependent thereon in Claim 25, because *Rune* fails to disclose an MBMS service request message.

Due to at least the foregoing reasons, it is respectfully submitted that the §102(e) rejection should be withdrawn. Withdrawal of the same is respectfully requested.

Independent Claims 14, 21, 23 and 25 are believed to be in condition for allowance. Without conceding the patentability per se of dependent Claims 15-20, 22, 24 and 26, these are likewise believed to be allowable by virtue of their dependence on their respective amended independent claims. Accordingly, reconsideration and withdrawal of the rejections of dependent Claims 15-20, 22, 24 and 26 is respectfully requested.

Accordingly, all of the claims pending in the Application, namely, Claims 14-26, are believed to be in condition for allowance. Should the Examiner believe that a telephone conference or personal interview would facilitate resolution of any remaining matters, the Examiner may contact Applicants' attorney at the number given below.

Respectfully submitted,

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